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EXAMINER				
CARTER, CANDICE D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,137

Applicant(s)

KIM, HAE YOUNG

Examiner

CANDICE D. CARTER

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Following is a Third, Non-Final Office Action in response to communications received on September 12, 2008. Claim 1 has been amended. No claims have been cancelled. No new claims have been added. Therefore, claims 1-18 are pending and have been addressed below.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

4. Claims 1-18 are directed toward a system for planning and tracking certification comprising a planner and a tracker which is not recited as having any corresponding structure in the specification and given its broadest reasonable interpretation can be construed as nothing more than software. Therefore, the claims are directed to nothing more than software per se and are non-statutory.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7, 9-11, 13, and 14 are rejected under 35 U.S.C. 102(e) as being unpatentable over Wenger (US 2003/0233242) in view of L'Allier et al. (6,606,480, hereinafter L'Allier).

As per claim 1, Wenger discloses "A system accessible by a user for planning and tracking certification, comprising:

planner that generates one or more certification goals based on a user profile and an authority profile associated with a certification authority" (Pg. 6, ¶ 89; via users select the school they want to profile their transcript against. The analysis provides a profile that details overall credits required to complete the program, where transcript information is stored in the users profile/account and the program information is taken from school profiles and the credits to be competed for the program are the certification goals)

and a tracker that tracks the certification process based on input regarding achievement of the one or more user selected certification goals (pg. 4, ¶ 31; via tracks credits achieved through training or portfolio processes).

Wenger, however, fails to explicitly disclose "wherein the planner is responsive to user selection of one or more of the generated certification goals for creating a certification plan".

L'Allier discloses an automated system and method for creating an individualized learning program having a planner generate a training regimen responsive to user selection of one or more of the generated training goals (col. 6, line 6-14 discloses a

user identifying a skill desired and generating a training regimen based on that desired skill not currently possessed by the user, where the skill is the training goal).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of Wenger to include the generation of a training regimen based on a selected desired skill as taught by L'Allier in order to tailor a program directly to those skills that the user needs or desires.

The Wenger and L'Allier combination fails to explicitly disclose updating the certification plan in response to input regarding achievement of the one or more selected certification goals.

It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include the updating of the certification plan based on input regarding achievement of the one or more selected certification goals because it is old and well known to update a training or academic program so that a user may keep track of those goals that have been completed and those goals that still need to be completed. Furthermore, it is old and well known to update information when the status of such information changes.

As per claim 2, Wenger discloses "the certification plan relates to at least one of certification, re-certification, licensing, re-licensing in a field of endeavor" (Abstract; via licensure programs).

As per claim 3, Wenger discloses “the field of endeavor comprises a field relating to at least one of education, teaching, medical, engineering, legal, accounting, and sports” (pg. 1, ¶ 6; via teaching, engineering and nursing).

As per claim 4, Wenger discloses “the certification authority comprises at least one of a federal government, state government, county government, local government, municipal government, public official, private official, governmental agency, non-governmental agency, public institution, and private institution” (pg. 3, ¶ 25; via Profiling for schools, where schools could be public or private institutions).

As per claim 5, Wenger discloses, “the planner is responsive to at least one of Needs Assessment and Certification Credit information for generating the certification” (pg 4, ¶ 37 and 38; via In order to support auditing directions for program and license analysis information pertinent to a particular curriculum or program is stored in containers. The system is able to take information from the containers to develop career/program plans for each user).

As per claim 6, Wenger discloses “the planner is responsive to certification credit transfer from another certification authority for generating the certification goals” (pg. 3, ¶ 21; via determine possible transfer credit awards)

As per claim 7, Wenger discloses “the tracker updates the certification plan based on at least one of a user input and non-user input” (pg. 6, ¶ 88; via users can modify transcript information as additional courses are taken, employment changes or new information becomes available where this information is tracked by the credit tracking feature discussed in ¶ 30).

As per claim 9, Wenger discloses "certification resource generator that associates at least one of the certification goals with at least one certification resource" (pg. 3, ¶ 26; via presents requirements for degrees at the school for a specific program of study and/or a specific licensure program where the degree requirements are associated with the program of study that the user wishes to study and are also the certification goals that must be completed in order to receive certification or a degree).

As per claim 10, Wenger discloses "the certification resource comprise at least one of a course, program, session, seminar, audio lecture, video lecture, a book, a test, and a form" (pg. 4, ¶ 30; via credit could be awarded for military courses or experience through ACE courses, CLEP tests, SAT/ACT tests, or Portfolio reviews).

As per claim 11, Wenger discloses, "has a format comprising at least one of a course, session, seminar, degree program, test, form, book, audio, and video" (pg. 4, ¶ 30; via credit could be awarded for military courses or experience through ACE courses, CLEP tests, SAT/ACT tests, or Portfolio reviews).

As per claim 13, Wenger discloses, "including an on-line system accessible by the user for at least one receiving, ordering, and registering for a certification resource" (pg. 3, ¶ 22; via Online training Systems that provide training services for the Portfolio Development System, Career Plain Training and Employment Skills training).

As per claim 14, Wenger discloses, "wherein the planner transmits the certification plan to the certification authority for approval" (pg. 6, ¶ 87; via Program managers manage and maintain information about schools, courses and equivalencies. When possible, updates to these databases are completed electronically. Partner

schools can access these files. They update their information several times a year and verify accuracy of program, course, and equivalency databases, where the verification is the approval by the certification authority).

7. Claims 8, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenger in view of L'Allier as applied to claim 1 above and further in view of Orton et al. (US 2003/0046265).

As per claim 8, the Wenger and L'Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose "the planner prioritizes the generated certification goals based on one or more certification requirements of the certification authority". Orton et al. discloses a method and system for creating personalized training programs having a planner that "prioritizes the generated certification goals based on one or more certification requirements of the certification authority" (pg. 5, ¶ 69; via The tool tracks the progress of the user throughout the training plan. The tool keeps the user apprised of his/her progress. Once the user completes the requested training modules, he/ she is ready to attend the scheduled learning lab, where the system prioritizes the program such that the user will complete the training modules before they attend the learning lab).

Therefore it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include the step of "prioritizing the generated certification goals based on one or more

certification requirements of the certification authority” as taught by Orton et al. because prioritizing the certification goals for the user will ensure that the user is successfully completing the program requirements as required by the certification authority.

As per claim 15, the Wenger and L’Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose “the tracker transmits an e-mail to the user in connection with a certification goal”. Orton et al. discloses a method and system for creating personalized training programs having a planner having a “tracker transmits an e-mail to the user in connection with a certification goal” (pg. 1, ¶ 8; via receive, automatic email alerts relating to new and existing resources according to the user’s interests and career plans).

Therefore it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L’Allier combination to include where “the tracker transmits an e-mail to the user in connection with a certification goal” as taught by Orton et al. because alerting the user by email will ensure that the user receives all information pertinent to their certification goals.

As per claim 16, the Wenger and L’Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose “the tracker alerts the user regarding a certification goal deadline”. Orton et al. discloses a method and system for creating personalized training programs having a planner having a “tracker that alerts the user regarding a certification goal deadline” (pg. 4, ¶ 35; via the tool will

display an approximate time for completion of the questions so that the user may accommodate this time, where the time for completion of the questions is a deadline).

Therefore, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include the alert as taught by Orton in order to ensure that the user receives all information pertinent to their certification goals.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenger in view of L'Allier as applied to claim 1 above and further in view of Finaid.org (2002).

As per claim 17, the Wenger and L'Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose "an on-line grant module accessible by the user to search for a grant". Finaid.org discloses a scholarship database system having "an on-line grant module accessible by the user to search for a grant" (¶ 5; via search one of the scholarship databases, where a scholarship is a grant).

Therefore it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include the searchable scholarship database system as taught by Finaid.org because students may need funding for school, and a provision that would allow them to search for such funding would be a useful feature for the claimed system.

As per claim 18, the Wenger and L'Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose, "the on-line grant module allows the user to apply for a selected grant". Finaid.org discloses a scholarship database system having where "the on-line grant module allows the user to apply for a selected grant" (§ 4; via you can even submit an application to some of the scholarships listed).

Therefore it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include the searchable scholarship application database system as taught by Finaid.org because students may need funding for school, and a provision that would allow them to search and apply for such funding would be a useful feature for the claimed system).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenger in view of L'Allier as applied to claim1 above, and further in view of Examiners Official Notice.

As per claim 12, the Wenger and L'Allier combination discloses all of the elements of the claimed invention but fails to explicitly disclose "wherein the course comprises at least one of a live course and a self-paced course".

Examiner takes Official Notice that all courses can only be, either, live or self paced. For example, a student may register for different types of courses such that they can fit into their schedule. These courses may be live courses that meet 2-4 times a week in a lecture hall or a lab with faculty facilitation, or they may be taken online where

course materials and requirements may be reviewed and completed at the students' convenience. Courses may also be taken through software programs, which also allow students complete them at their own pace.

Therefore it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the method and system for auditing academic credit for employment and training of the Wenger and L'Allier combination to include live and self-paced courses, since such is old and well known in the art that all courses are always, either, live or self-paced courses.

Response to Arguments

10. Applicant's arguments filed September 12, 2008 have been fully considered but they are not persuasive.

In response to arguments for claim 1 with respect to the limitation "the planner is responsive to user selection of one or more of the generated certification goals for creating a certification plan", Examiner respectfully disagrees. Applicant argues that there is no teaching in the cited passages of L'Allier regarding a user selecting any training goals for creating the plan and that instead it appears that the system creates the plan responsive to input from a supervisor or manager identifying those skills desired to be possessed by the user. It is noted, however, that the features upon which applicant relies (i.e., who the user is or who the user is creating the plan for) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, in the event that Applicant had added the argued limitations not currently recited in the claim language, it would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to modify the Wenger and L'Allier combination to include a user selecting certification goals to create a certification plan for himself because it is old and well known for individuals to have input on their own personal career goals or plans.

Applicant also argues that the individual development plan is not the same as a certification plan. Examiner asserts that the specific type of plan does not change the function of the claimed invention and that the system for creating a learning program of L'Allier is fully capable of creating any type of plan.

Furthermore, Wenger discloses in ¶ 27 profiling course requirements for a licensure program. It has been held that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to arguments for claim 1 with respect to the limitation "a tracker that updates the certification plan in response to input regarding achievement of the one or more user-selected certification goals", Examiner respectfully disagrees. Applicant argues that claim 1 does not require tracking the certification goals. Instead, the tracker is used to update the certification plan that is created by selection of the certification goals. Examiner asserts that tracking the certification goals and updating the certification plan that is created by the selection of the certification goals are functional

equivalents because the tracker updates the certification plan by tracking the completion of the certification goals that were selected. Once the tracker tracks that the goal has been completed and the status of the goal has changed, then the certification plan has changed.

In response to arguments in reference to claims 2-18 , all rejections made towards the dependent claims are maintained due to a lack of reply by the applicant in regards to distinctly and specifically pointing out the supposed errors in the examiner's prior office action (37 CFR 1.111).

In response to arguments in reference to the 35 U.S.C 112, second paragraph rejections of claims 1-18, Applicants arguments are persuasive. Examiner withdraws the 35 U.S.C 112, second paragraph rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDICE D. CARTER whose telephone number is (571) 270-5105. The examiner can normally be reached on Monday thru Thursday 7:30am- 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. D. C./
Examiner, Art Unit 3629

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629